IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18434 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

VANKAR SADABHAI PANABHAI & 2 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

==========

Appearance :
MR SANJAY D SUTHAR for Petitioner(s) : 1 - 3.
MR KL PANDYA, AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,
MR HS MUNSHAW for Respondent(s) : 3,

==========

CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 09/03/2006

ORAL JUDGMENT

1.Rule. Learned Advocate, Mr.H.S.Munshaw waives service of Rule for respondent No.3. Mr.K.L.Pandya, learned Addl. Government Pleader waives service of Rule for respondent Nos.1 and 2.

2.Heard the learned Advocates. Mr. Suthar, learned Advocate for the petitioners relied upon a decision of this Court (Coram : Hon'ble Mr. Justice S.D.Dave,J.)in Special Civil Application No.7247 of 1998 dated 10th December 2004. The learned Advocate for the petitioners submitted that the case of petitioners is identical to that of the petitioners of that case and therefore, similar directions be issued which will serve the end of justice.

3.Learned Advocate for the respondent No.3 vehemently submitted that under G.R.s dated 26th August 1993, 20th December 1995 and 24th December 1999, there are pre conditions, which are required to be fulfilled before it could be directed to send the petitioner for training. Learned Advocate for the respondents further submitted that though the other relevant

details are furnished by the petitioners in a tabular form produced at Annexure-"A", the petitioners have not disclosed as to how many years of service they had put in on the relevant date. He submitted that in fact this very aspect was noted by this Court, while issuing notice in this matter on 19th September 2005. He invited the attention of the Court to the order passed by this Court which reads as under :

> "The petitioners, Malaria Workers, seek absorption in service as Superior Field Workers pursuant to the Government Resolution dated 26th August 1993. Prima facie, it appears that the petitioner had not completed 10 years' continuous service as Malaria Workers as on 01st April 1991."

4. Be that as it may. The direction which is given by this Court in the aforesaid Special Civil Application No.7247 of 1998 can always be issued as it is innocuous and takes care of the rival contentions of both the parties.

Accordingly, this petition is allowed. The respondents are directed to consider the case of the petitioners for sending them for training for the post of Multi purpose Health Worker as per the Government policy and guidelines particularly in light of the contents of G.R.s dated 26th August 1993, 20th December 1995 and 24th December 1999. In case the respondents find that the petitioners are not required to be sent for training, the respondents then a speaking order be passed within a period of two months from the date of receipt of writ of this Court. The respondents shall communicate the decision to the petitioners by Regd. Post A.D. letter.

5.Rule is made absolute with no order as to costs. Direct service is permitted.

(RAVI R. TRIPATHI,J.)

mrpandya*